

1877-01

Santhampton County - Chancery

Appelwhite, John E vs Appelwhite, John E.
et al

"
To pay infants funds"
"

(John E Appelwhite
Benjamin J. Appelwhite
+
Charles H Appelwhite
infants

To the Honorable Richard G. Baker judge of the
Circuit Court of Southampton in Chancery sitting

Humbly complaining your orator John E
Appelwhite sheweth unto your honor that at the
October rules 1838 his then infant children John
E Appelwhite, Benjamin J Appelwhite and Charles
G Appelwhite by their next friend filed their bill in
chancery against him as Administrator of Nathan Simmons
decd and his wife Lucy Appelwhite decd and Mary
Simmons, setting forth the facts that in the year
1836 Nathan Simmons departed this life having first
made his last and testament which was duly proved
in the county court of Southampton by which will
the said Simmons gave his estate his daughter
Lucy, your orator's wife during her life and at
her death to the said children and Mary R
Simmons and setting forth further that in August
1838 Lucy Appelwhite died and that your orator
qualifies as her administrator; They asked that your
orator and Mary R Simmons the other devisee and
legatee should be made defendants, that your
orator should settle his administration accounts both
of Nathaniel Simmons and his wife Lucy and
that the lands devised them by the said Simmons
should be divided if practicable if not be sold
and that the balances due them by the said
accounts if any should be paid, Your orator states
that it will appear by the several depositions in
that cause signed Appelwhite vs Simmons adm
and which is now on the docket and which is
herby made and exhibit to this cross bill that
the land was sold and the bonds returned by the
commissioner and filed in the cause and an etc

on file, that an account of his administration
both of Nathaniel Simmons estate and his wife Elizabeth's
estate was sent also an account of the value
of Nathaniel Simmons estate, and account of the
estimated value of the rent of the land and hire
of the slaves, These accounts showed a considerable
balance due from ^{your} orator to the legatus and
devises of the said Nathaniel Simmons, Thompson on
Jan'y 1861, the said infants John E, Benjamin, and
Charles G. Applwhite annulled their bill making
Charles G. Gwilleke, George I. Davis, Benjamin
Applwhite and John R. Rochelle the securities of
your orator as adm^r of Nathaniel Simmons parties
defendant to this cause and to show cause if
any why the commissioners report returned to the
May term 1859 should not be confirmed and they
as securities be bound in the court of your
orator's inability to pay the balances found due
the said minors, and asking also that the
court would direct the collection of the purchase
money for the land which your orator had purchased

Your orator states further that at the May
term 1861 by a decree entered in the said cause
among other things it was ordered that your
orator should deposit in one of savings banks
in the town of Petersburg to the credit the said
minors the sum of \$433.18cts with interest from
the 24th of August 1858, also the sum of \$1453.67cts
with interest at \$1399.86cts from the 18th of June 1859
also the sum of \$187.43cts with interest from the 1st
Jan'y 1859 and that the commissioners should collect
from him the bonds due for the purchase of the land
nothing further has been done in the cause except
a decree was entered at the May term 1860 for

your orator to show cause why he should not be
attacked for contempt of the court in not complying with
the order of the May term 1861

Your orator states that he now is and
was at the time of the filing of the bill against
him by his children a poor man, that he now
is and ever has been willing to share his last
cent with his children, but he thinks it nothing
more than right that as he has been charged
with rent of land and hire of slaves in which
his wife had a life estate and as he has been
charged also in the said accounts erroneously too
as he thinks with the proceeds of the crops
that he should be allowed for the support and
maintenance of his children from the time of
the filing of their bill up to this time, your
orator states that he is and has been for a long
time very poor and that if his children should
recover these large sums of money it would
fall heavily on his innocent securities, and he
thinks it nothing more than right that he
should only pay what may be found due to
them after allowing him a reasonable annual
sum for their support from the time of the filing
their bill up to this time

For further consideration whereof and
inasmuch as your orator is without remedy except in
a court of equity he therefore prays that, John E,
Benjamin and Charles G. Applwhite their infants
by some fit and proper person their guardian ad
litem appointed for that purpose may be made
parties defendant to this bill and compel them as
full and perfect answer make to the allegations
therein contained as if they had been themselves

more fully and specially interrogated, That the court
 would direct one of its commissioners to enquire
 and report how much your orator should be allowed
 to ~~draw~~ ^{draw} a year from October 1838 to the present
 time for the support and maintenance of each of
 his three infant children John E., Benjamin J., and
 Charles H. Applewhite that this crop bill may come
 on to be heard at the same time with said infants
 original and amended bills and that the court
 should direct your orator to pay to the said
 infants only such an amount as shall be
 found due after deducting the amount which
 may be found due for their support, and that
 the court would grant such other and general
 relief the premises considered as equity may
 dictate and the nature of his case may require
 and as in duty bound your orator will ever pray &c.
 Charles J. G.

1866
 June, 1866

Applewhite
 vs
 Applewhite
 Applewhite
 Applewhite

Appluwhites by us
add 3
Appluwhites

Answer to John E,
Bayer & Charles H.
Appluwhites infants
by their gr. ad. letters
to R. Edwards

1866 July Rules

The ^{Joint} answer of John C, Benjamin J. & Charles
H. Applewhite three infants by L R Edwards
their guardian ad litem appointed for that
purpose to a bill in chancery by John C
Applewhite vs them

This defendant for answers to the said
bill or as much thereof as he is advised it is
material for him to answer, answering
says he knows nothing of the facts set
forth in the plaintiff's bill, but submits
the interests of his wards to the care of this
court whose peculiar duty it is to protect
the interests of infants and having fully
answered pray leave to be dismissed with
his costs etc.

L R Edwards
guardian ad litem
Received by court

Wm B Shandas
counsel for plaintiffs

Applewhite

v { Stat. Rules

Applewhites

In Southampton Circuit Court
John E. Applewhite.

against
John E. Applewhite, Benjamin T. Applewhite & Charles St. Applewhite

1866 June 5. Cross bill & Summons issued &c

" July R - L R. Edwards assigned for ad litem to def^t - answer of def^s
Gen. Repl. &c

" Aug R - Cause set for hearing on bill ans^r &c

" Nov. T. Decree for ans^r.

1867 Mar 28. Report.

1877 May - Dismissed

Applewhite

vs 3 Lemm's Report

Applewhite

1867 March 28th

Commissioner's Office

Jerusalem March 22^d 1867

To the Circuit Court of Southampton County

Pursuant to a Decree of the Circuit Court of Southampton County, rendered on the 8th day of November 1866, in a suit in Chancery depending in the said between John E. Applewhite, Plaintiff and John E. Applewhite, Benjamin F. Applewhite and Charles H. Applewhite, Defendants, the undersigned one of the Commissioners of the said Court, to whom was referred for settlement by said decree and to enquire and report whether the Plaintiff had the pecuniary ability to support his infant children, the Defendants unassisted by their property, and whether the Plaintiff did support his three infant children John E. Benj^r. F. & Charles H. Applewhite and for what length of time, and what amount, if any, should be paid him, who is directed to examine, state and settle the same. reports to the Court that on the 20th day of January 1867, he issued notices against the several parties aforesaid, requiring them to attend the settlement of the said account, before him, at his said office, on the 28th day of February 1867, which were returned to your Commissioner duly executed. That the parties aforesaid appeared before the Commissioner in obedience to the said notices, when your Commissioner examined testimony in the cause and from said testimony and of his own knowledge reports that the

Plaintiff had not and has not now the pecuniary ability to support his infant children the defendants assisted by their property, and he further reports that the plaintiff did support or has supported his three infant children John E., Benja H. & Charles H. Applewhite since the 24th day of August 1858, and that your Commissioner thinks there should be paid him the following amounts for the Board, education (and clothing of his said three children: to wit:

For John E. Applewhite.

From the 24th August 1858

To the 31st Decr 1858 } \$50.00

For the year 1859 150.00

" " " 1860 150.00

" " " 1861 150.00

" " " 1862 150.00

" " " 1863 150.00

Total for John E. when he became of service to his father } \$800.00

For Benja H. Applewhite.

From the 24th August 1858

To the 31st Decr 1858 } \$50.00

For the year 1859 150.00

" " " 1860 150.00

" " " 1861 150.00

" " " 1862 150.00

" " " 1863 150.00

" " " 1864 150.00

" " " 1865 50.00

Amounts carried over \$1000.00 \$800.00

Amounts brought forward \$1000.00 \$800.00

Total amount for the support of Benja H. Applewhite when he came of service to his father in 1866 }

For Chas H. Applewhite.

From the 24th August 1858

To the 31st Decr 1858 } \$50.00

For the year 1859 100.00

" " " 1860 100.00

" " " 1861 150.00

" " " 1862 150.00

" " " 1863 150.00

" " " 1864 150.00

" " " 1865 150.00

" " " 1866 150.00

Total amount for the support of Chas H. Applewhite to the 31st Decr 1866, he being still young & small }

\$1150.00

Total for support of all of them \$2950.00

And your Commissioner reports further that he thinks should be charged with the hire of their negroes - he the father John E. Applewhite having had them in his possession since the 31st Decr 1858 and no account been returned of the hire since that time.

Amount carried over \$2950.00

Amount brought over. \$2950.00
 For hires of Negroes for the year
 1859. \$300.00

For same for the year 1860 300.00

" " " " " 1861 300.00

" " " " " 1862 200.00

" " " " " 1863 100.00

" " " " " 1864 50.00

Total hires \$1250.00,

Deduct hires

Total Amount to be paid father \$1250.00
 after deduction of hires \$1700.00

The Commissioner further reports to the Court that after the completion of the said accounts he retained the same in his office ten days for the examination of the parties, during which time no exceptions being filed, the said accounts with the deems and notices aforesaid are herewith returned.

Given under my hand, as Commissioner aforesaid
 the day and year first aforesaid.
 Commissioner's fee \$12.00 Wm. S. Howard, Comr.

Applewhite

no 3 Leann's Notice

Applewhite

Executed on John Apple-
white Feb. 8th. 1867 by
delivering him a copy of
guardian's ad litem of
J. Carson Dept
for S. H. Elwell

Wm L. Edwards
Feb 10/67

COMMISSIONER'S OFFICE,

JERUSALEM,

1867

To

John E. Applewhite

against

John E. Applewhite, Benjamin H. Applewhite
 & Chas. H. Applewhite, infants by L. H. Edwards
 their Guardian ad litem

You are hereby notified that I have fixed upon the 23rd day of February next, if fair, if not, on the next fair day thereafter, (Sunday excepted,) to take and settle, at my office, the following accounts, to wit:

That one of the Commissioners of the Court enquire and report whether the plaintiff had the pecuniary ability to support his infant children the defendants unpaid by their proffers and whether the plaintiff did support his three infant children John E. Benjamin H. & Charles H. Applewhite & for what length of time and what amount, if any, should be paid him - who is directed to examine, state and settle the said account and make report thereof to the Court.

required to be taken by a decree of Southampton Circuit Court, rendered on the 8th day of November 1866, in a suit in Chancery, depending in said Court, in which you are parties, plaintiffs, and defendants; at which time and place you are required to attend.

Given under my hand as Commissioner in Chancery of the said Court, the day and year first afore said.

Henry S. Howard,

Commissioner.

To the Sheriff of Southampton County to execute.

Applewhite

Same Chy

Applewhite

1866 July Rules



and have then there this writ. Witness ALFRED D. EDWARDS, Clerk of our said Court, at the
Courtroom this 27th of 1866, in the
year of the Commonwealth

THE COMMONWEALTH OF VIRGINIA:

TO THE SHERIFF OF SOUTHAMPTON COUNTY--GREETING.

WE COMMAND YOU to summon *John E. Applewhite. Benj. T. Applewhite*
& *Charles H. Applewhite infants*

to appear at the Clerk's office of our *Orphans* — Court of Southampton County, at
the Rules to be holden for the said Court on the first Monday in *July next* to answer a *Cross bill*
in *Chancery* exhibited against them in our said Court by *John E. Applewhite* —

and have then there this writ. Witness LITTLETON R. EDWARDS, Clerk of our said Court, at the
Courthouse this *5* day of *June* 186*6*, in the *90* year of the Commonwealth.

L R Edwards

Appluwhits

v. } copy derived

Appluwhits

At a Circuit Court held for Southampton County, on Thursday, the
8th day of November, 1866,

John E. Applewhite

Plff.

against

John E. Applewhite, Benjamin J.

Applewhite & Chs. H. Applewhite

Defts.

In Chancery

This cause came on to be heard this day on the plaintiffs Bill, the answer
of the infant defendants, John E. Benjamin J. Charles H. Applewhite,
by their guardians E. R. Edwards assigned to defend them in this suit,
general replication thereto, exhibits filed and was argued by counsel. On
the hearing whereof the Court doth adjudge, order & decree that it be referred
to one of the commissioners of this Court to enquire and report whether
the plaintiff had the pecuniary ability to support his infant children, the
defendants, unassisted by their property, and whether the plaintiff did support
his three infant children, John E., Benj. J. Charles H. Applewhite, &
for what length of time, and what amount, if any, should be paid him -
who is directed to examine, state and settle the said account, and make
report thereof to the Court, with any matters specially stated deemed
pertinent by himself or which may be required by any of the parties
to be so stated.

Attest

Teste

E. R. Edwards Clk

Apprehensive
as 3 Decem
Apprehensive

To be entered

R 11.13

Appelwhite
Nov 3 Decr
Appelwhite

This cause came on to be heard this day on the plaintiff's bill, The answer of the infant defendants John E., Benjamin T., and Charles H. Appelwhite by their guardian E. R. Edwards assigned to defend them in this suit, general replication thereto exhibits filed and was argued by counsel on the hearing whereof the court doth adjudge order and decree, that it be referred to one of the commissioners of this court ^{to inquire} whether the plaintiff did support his three infant children John E., Benjamin T., and Charles H. Appelwhite since ~~October 1858~~ ^{for what length of time} ~~and~~ ^{if any} and what amount should be paid him per annum for each of them for their support and maintenance who is directed to examine estate and settle the said accounts and make report thereof to the court with any matters specially stated deemed pertinent by himself or which may be argued by any of the parties to ~~be~~ so stated

To enquire and report whether the plaintiff had the pecuniary ability to support his infant children, the debt, unpaid by them for property

Appluolite
or 3 Decre
Appluolite

May Term 1877
To be entered
Geo B. W. W.

Appellate
as 3 Decm
Appellate

formerly made and on motion of the
plaintiff his bill is dismissed

This day this cause
came on again to be
heard on the papers
formerly made and on motion of the
plaintiff his bill is dismissed

~~44~~ ~~33~~ ~~30~~ ~~46~~ ~~43~~
~~47~~ ~~45~~

April 20 white

& { Papers

April 20 white

1877 - May Term